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**Planning Commission  
Community Auditorium  
1915 Main Street, Forest Grove, OR  
Monday, July 1<sup>st</sup>, 2019, 7:00 pm**

**1. CALL TO ORDER:**

Vice Chair Phil Ruder called the meeting to order at 7:00 p.m. Roll Call:

**Planning Commission Present:** Phil Ruder, Vice Chair; Commissioners Lisa Nakajima, Ginny Sanderson, Sebastian Bannister Lawler, Hugo Rojas, and Dale Smith.

**Planning Commission Excused:** Tom Beck, Chair.

**Staff Present:** James Reitz, Senior Planner; Bryan Pohl, Community Development Director; Cassi Bergstrom, Planning Commission Coordinator

**2. PUBLIC MEETING:**

**A. PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS:**

None.

**B. PUBLIC HEARING:**

**(1.) File No. 311-19-000011-PLNG –Variance to fence height in a residential zone located at 3402 Ivy Crest Court**

Vice Chair Ruder opened the quasi-judicial public hearing at 7:02 p.m., reading the hearing procedures, criteria, and asked for disclosure of any conflicts of interest, ex-parte contacts, bias, or abstentions. Vice Chair Ruder stated he lives nearby the property but has had no contact with anyone involved. There were no challenges from the audience.

Mr. Reitz gave a presentation, showing the applicant’s retaining wall with the fence located on the top, as well as the neighboring property’s gate as a point of egress. Building code requires a barrier from a greater than 30” drop be located at the point of egress for an extension of six feet. The remainder of the fence on top of the retaining wall is not required. The fence is taller from point of grade than the 42” allowed in the front yard, and also poses a vision clearance obscurity. For these reasons, staff is recommending a denial of both variances requested with a requirement to remove the fencing within 15 days.

**CORRESPONDENCE:**

Mr. Reitz informed the Commission that a letter of testimony was received earlier in the day from a chairperson of the Architecture Control Committee, and the letter was given out as a hard copy as well as emailed out to Commissioners.

**APPLICANT:**

**Maris Graube, 3402 Ivy Crest Ct, Forest Grove, OR 97116:**

Mr. Maris Graube came forward, stating he purchased the property to build a one-story house on the lot. Mr. Graube gave the history of the dispute between the neighbor and himself, which is the reasoning behind the necessity of having a fence located atop the retaining wall. A variance is requested due to the falling hazard from the top of the retaining wall onto his driveway, preventing a possible lawsuit.

Mr. Graube also noted that the pedestrian traffic is low in the cul-de-sac, and having the barrier fence removed poses a greater hazard. Mr. Graube referenced numerous visibility violations within the neighborhood and noted they are not all uniformly enforced.

**PROPONENTS:**

**Dan Duyck, 3701 SE Milwaukee Ave, Portland, OR 97202:**

Mr. Dan Duyck came to the front, stating he represents Maris Graube as his attorney. Mr. Duyck gave the history of the dispute between the two neighbors, and is afraid if the fence is removed it will result in someone falling off the "cut". Mr. Duyck noted safety hazards to the children of the neighborhood as well as Mr. Graube, displaying pictures as evidence.

Commissioner questioned if the same purpose of the fence would be served by a fence meeting the 42 inch criteria. Mr. Duyck responded that the highest fence in this situation will be best.

**OPPONENTS:**

**John Hengeveld, 3434 Ivy Crest Ct, Forest Grove, OR 97116:**

Mr. John Hengeveld came to the front, reading the letter of correspondence he submitted as part of the record. His concerns are the fence impeding the visibility when a car is pulling out of the driveway as well as the aesthetics. Mr. Hengeveld is the current Architecture Control Committee Chair for the Summit Pointe neighborhood, and the CCRs do not allow fencing in the front yard unless required by the city. The fence in this case was never approved and would not be allowed based upon the CCR for the neighborhood.

Vice Chair Ruder wondered about the mechanism of enforcing the CCR of the neighborhood, and Mr. Hengeveld stated that the committee can't override a city's requirement but anything not required can be enforced and is waiting for the city's interpretation of the fence variance. Mr. Reitz reiterated that the first 6 feet of the fence is required by building code as a barrier, but the remainder of the front fence is not.

Commissioner Nakajima stated her concern regarding the retaining wall lip as a possible trip hazard. Mr. Hengeveld is more concerned about someone backing out of the Graube driveway with the inability to see kids playing due to the fence height and restriction of visibility.

**Jason & Suzi Jewett, 3403 Ivy Crest Ct, Forest Grove, OR 97116:**

Mr. and Mrs. Jewett came to the front, giving a presentation in opposition of the fence height variance with the vision clearance being the main concern, showing pictures and a video of the children playing in the cul-de-sac as well as the fence visibility safety concern.

Mr. and Mrs. Jewett also circulated a petition to houses located in Summit Pointe development, and 20 homeowners were against the front yard fence with more homeowners predicted to sign the petition in opposition of the fence. The CCR states no fences in the front yard, but the contractor continued to build the fence.

Ms. Jewett asked Commissioners to require the fence to be removed if the application is appealed due to the safety risk of the children until a final decision is made.

Clarification regarding the vision clearance requirements was requested from Mr. Jewett, and Vice Chair Ruder reminded them that the variance is requested for the fence only and is the only item to be discussed. City Attorney Chris Crean clarified that the land use application for a variance to a height limit of a fence filed from the applicant is to be discussed tonight, not the complaint filed prior.

**Don & Dawn Jones, 3407 Ivy Crest Ct, Forest Grove, OR 97116:**

Mr. and Mrs. Jones came to the front, voicing that their main concern is regarding the vision clearance and reducing the fence 42 inches is not enough to help the visibility. There are a lot of children who play in the cul-de-sac which poses a great risk with a fence being built there.

**OTHER:**

None.

**REBUTTAL:**

None.

Vice Chair Ruder closed the public hearing at 8:03 p.m.

**COMMISSIONER DISCUSSION:**

Commissioners discussed the staff recommendation to deny the request and bringing the fence into compliance based on the Development Code and building code requirements based on the vision clearance concerns.

Commissioner Bannister Lawler moved to deny file number 311-19-000011-PLNG –Variance to fence height in a residential zone located at 3402 Ivy Crest Court.

**Roll Call Vote on Motion:** AYES: Vice Chair Ruder; Commissioners Bannister Lawler, Sanderson, Rojas, Nakajima, and Smith. NOES: None. ABSENT: Chair Beck. MOTION CARRIED 6-0.

C. **ACTION ITEMS:**

None.

D. **WORK SESSION ITEMS:**

None.

3. **BUSINESS MEETING:**

A. **APPROVAL OF MINUTES:**

Commissioner Rojas moved to approve the minutes of the June 17<sup>th</sup>, 2019 meeting. Commissioner Bannister Lawler seconded. Motion passed 6-0.

B. **REPORTS FROM COMMISSIONERS/SUBCOMMITTEES:**

None.

C. **DIRECTOR'S REPORT:**

Community Development Director Bryan Pohl gave an update on the next meeting's agenda items being the Housing Needs Analysis and code amendments for Seasonal Homeless Shelters.

Mr. Pohl updated the Commission on the two House Bills, 2001 and 2003, for affordable housing in the single family residential zoning which will require the city to amend the Comprehensive Plan to bring it up to compliance with the state laws.

D. **ANNOUNCEMENT OF NEXT MEETING:**

The next meeting is scheduled for August 19<sup>th</sup>, 2019.

E. **ADJOURNMENT:**

The meeting was adjourned at 8:19 p.m.

Respectfully submitted by:

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Cassi Bergstrom  
Planning Commission Coordinator